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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 CISCO SYSTEMS, INC.,

14 Plaintiff,

15 v.

16 ARISTA NETWORKS, INC.,

17 Defendant.

Case No. 3-14-CV-05344-BLF

**DECLARATION OF  
KATHERINE LLOYD-LOVETT IN  
SUPPORT OF MOTION TO COMPEL  
INTERROGATORY RESPONSES**

Date: October 27, 2015  
Time: 10:00 a.m.  
Judge: Honorable Paul Grewal  
Dept.: Courtroom 5

Date Filed: December 5, 2014

1 I, Katherine M. Lloyd-Lovett, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am an  
3 associate of the law firm of Kecker & Van Nest LLP, counsel for Defendant Arista Networks, Inc.  
4 (“Defendant”) in the above-captioned matter. I am admitted to practice before this Court. I make  
5 this declaration based on personal knowledge and if called as a witness, I could and would testify  
6 competently to the same as stated herein.

7 2. Attached hereto as **Exhibit A** is a true and correct copy of a December 5, 2014  
8 blog post published on the Cisco Blog by Mark Chandler, the General Counsel of Cisco, entitled  
9 “Protecting Innovation.”

10 3. Attached hereto as **Exhibit B** is a true and correct copy of Exhibit 1 to Cisco’s  
11 Complaint in this matter, which lists approximately 500 CLI commands that Cisco alleges Arista  
12 copied.

13 4. Attached hereto as **Exhibit C** is a true and correct copy of the “Virtual Router  
14 Redundancy Protocol” Request for Comments (2338), dated April 1998 and published by the  
15 Internet Engineering Task Force, also known as the “IETF.”

16 5. Attached hereto as **Exhibit D** is a true and correct copy of the of the parties’ Joint  
17 Case Management Statement, dated May 7, 2015.

18 6. Attached hereto as **Exhibit E** is a true and correct copy of Arista’s First Set of  
19 Interrogatories to Cisco, dated April 10, 2015, including Arista’s Interrogatory 5.

20 7. Attached hereto as **Exhibit F** is a true and correct copy of Cisco’s Second  
21 Supplemental Objections and Responses to Defendant Arista Network’s First Set of  
22 Interrogatories, served on September 1, 2015. These responses reflect Cisco’s objections and  
23 first, second, and third set of responses to Arista’s Interrogatory 5.

24 8. Cisco first served objections and responses to Arista’s First Set of Interrogatories,  
25 including Arista’s Interrogatory 5, on May 14, 2015.

26 9. I participated in a meet and confer call on July 13, 2015, with counsel for Cisco  
27 regarding the parties’ respective discovery requests and responses. During that call, Matthew  
28 Cannon, counsel for Cisco, said that Cisco’s answer to Interrogatory 5 reflected Cisco’s belief

1 that none of the CLI commands were derived from some source that already existed. My  
2 colleague Brian Ferrall, counsel for Arista, clarified that “derivation” was not limited to  
3 information about a prior source for CLI commands, but rather was intended to cover basic facts  
4 about the origin and creation of the command. Mr. Cannon suggested that Cisco would  
5 supplement the response by producing documents regarding authorship. Mr. Ferrall explained  
6 that producing documents pursuant to Federal Rule of Civil Procedure 33(d) would not suffice  
7 since it would seem very unlikely that a description of the creation and origin of each command  
8 would be found in a document. Mr. Ferrall also clarified that Arista would accept, for the time  
9 being, a response to Interrogatory 5 that was limited to the CLI Commands asserted in Exhibit 1  
10 to Cisco’s complaint.

11 10. Attached hereto as **Exhibit G** is a true and correct copy of a letter my colleagues  
12 and I received from Mr. Cannon on July 20, 2015.

13 11. Cisco first supplemented its response to Interrogatory 5 on August 7, 2015. On  
14 August 11 and 18, 2015, I participated in two meet and confer calls with counsel for Cisco during  
15 which my colleagues and I explained that Cisco’s response to Interrogatory 5 remained  
16 inadequate. On August 18, Cisco’s counsel Sean Pak agreed to provide a supplemental response  
17 to Interrogatory 5 by September 1, 2015, identifying the “key” individuals who developed Cisco’s  
18 CLI commands. My colleague Ajay Krishnan explained that Arista needed to know *all* of the  
19 CLI command authors’ names, not just those of the “key” authors, but agreed to consider Cisco’s  
20 supplemental response before moving to compel a full response to Interrogatory 5.

21 12. Cisco again supplemented its response to Interrogatory 5 on September 1, 2015.  
22 Its new response identified one individual, Kirk Loughheed, as “knowledgeable regarding the CLI  
23 command expressions and the process” by which the CLI commands were created.

24 13. Attached hereto as **Exhibit H** is a true and correct copy of Arista’s Second Set of  
25 Interrogatories to Cisco, dated July 24, 2015.

26 14. Attached hereto as **Exhibit I** is a true and correct copy of Cisco’s Objections and  
27 Responses to Arista’s Second Set of Interrogatories, served August 27, 2015, which includes  
28 Cisco’s response to Interrogatory 16.

1           15.     A staff member working under my direction performed a rough count of the  
2     number of pages in the documents identified in Cisco's response to Interrogatory 16 and reported  
3     that there were more than 350,000 pages in that set. A word search on those documents turned up  
4     no hits for "Lougheed."

5           16.     On August 31, I participated in a meet and confer call with Cisco's counsel.  
6     During that call, my colleagues and I asked Mr. Cannon and Peter Klivans, counsel for Cisco,  
7     whether the documents identified in Cisco's response to Interrogatory 16 included the name of  
8     even *one* author of even *one* Cisco CLI command. Mr. Cannon said that he did not know.

9           17.     On September 3, 2015, I wrote a letter to Mr. Cannon requesting a meet and confer  
10    no later than September 4 regarding Interrogatories 5 and 16 and requesting that Cisco let us  
11    know if it was willing to stipulate to an expedited briefing schedule on a motion to compel  
12    responses to those requests. On September 15, 2015, I participated in a meet and confer call with  
13    Cisco's counsel regarding Interrogatories 5 and 16. Messrs. Cannon and Klivans stated that Mr.  
14    Lougheed was not the author of all of the CLI commands and that Cisco could not say what, if  
15    any, commands he authored. Messrs. Cannon and Klivans could not provide any specifics about  
16    what, if anything, Cisco had done to collect the basic bibliographic information and derivation  
17    narrative for all of the asserted commands. They stated that they were still gathering information  
18    in order to respond to Interrogatories 5 and 16 but would not commit to produce all of the  
19    information sought by the interrogatories or to supplement prior to October 5. They further stated  
20    that key individuals were unavailable to provide more information due to a hearing in the  
21    International Trade Commission between Arista and Cisco, but would not identify any specific  
22    witness both critical to collecting responsive information and unavailable because of that hearing.  
23    Mr. Ferrall stated that Arista would seek expedited hearing on a motion to compel a complete  
24    response. Mr. Klivans stated that Cisco would oppose expedited briefing on that motion.

25           18.     To date, I have participated in six meet and confer calls with Cisco's counsel  
26    regarding Interrogatory 5, Interrogatory 16, or both interrogatories.

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1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct and that this declaration was executed on September 17, 2015, in  
3 San Francisco, California.

4 /s/ Katherine M. Lloyd-Lovett  
5 KATHERINE M. LLOYD-LOVETT